

SECTION 5. This Act takes effect September 1, 2015.

Passed by the House on April 16, 2015: Yeas 145, Nays 1, 2 present, not voting;
passed by the Senate on May 22, 2015: Yeas 31, Nays 0.

Approved June 16, 2015.

Effective September 1, 2015.

**STORAGE OF CERTAIN HAZARDOUS CHEMICALS;
TRANSFERRING ENFORCEMENT OF CERTAIN REPORTING
REQUIREMENTS, INCLUDING THE IMPOSITION OF
CRIMINAL, CIVIL, AND ADMINISTRATIVE PENALTIES,
FROM THE DEPARTMENT OF STATE HEALTH SERVICES TO
THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY;
AMENDING PROVISIONS SUBJECT TO A CRIMINAL
PENALTY; REENACTING A CRIMINAL OFFENSE**

CHAPTER 515

H.B. No. 942

AN ACT

relating to the storage of certain hazardous chemicals; transferring enforcement of certain reporting requirements, including the imposition of criminal, civil, and administrative penalties, from the Department of State Health Services to the Texas Commission on Environmental Quality; amending provisions subject to a criminal penalty; reenacting a criminal offense.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 63.151, Agriculture Code, is amended by adding Subdivisions (3), (4), and (5) to read as follows:

(3) *"Ammonium nitrate storage facility" means a facility that stores ammonium nitrate material or ammonium nitrate to be used in ammonium nitrate material and includes the premises on which a facility is located.*

(4) *"Fire marshal" means the state fire marshal or a local fire marshal, fire chief, or volunteer fire chief having jurisdiction over the area in which an ammonium nitrate storage facility is located.*

(5) *"Operator" means the person who controls the day-to-day operations of an ammonium nitrate storage facility.*

SECTION 2. Subchapter I, Chapter 63, Agriculture Code, is amended by adding Section 63.158 to read as follows:

Sec. 63.158. FIRE PREVENTION AT AMMONIUM NITRATE STORAGE FACILITIES. (a) *The owner or operator of an ammonium nitrate storage facility shall, on request, at a reasonable time:*

(1) *allow a fire marshal to enter the facility to make a thorough examination of the facility; and*

(2) *allow the local fire department access to the facility to perform a pre-fire planning assessment.*

(b) *A fire marshal who determines the presence of one or more of the following hazardous conditions that endangers the safety of a structure or its occupants by promoting or causing fire or combustion shall notify the owner or operator of the facility of the need to correct the condition. The hazardous conditions are:*

(1) *the presence of a flammable substance;*

(2) *a dangerous or dilapidated wall, ceiling, or other structural element;*

- (3) *improper electrical components, heating, or other building services or facilities;*
- (4) *the presence of a dangerous chimney, flue, pipe, main, or stove, or of dangerous wiring;*
- (5) *the dangerous storage of substances other than ammonium nitrate or ammonium nitrate material, including storage or use of hazardous substances; or*
- (6) *inappropriate means of egress, fire protection, or other fire-related safeguard.*
- (c) *The owner or operator of an ammonium nitrate storage facility shall:*
 - (1) *on request by a fire marshal or the service provide evidence of compliance with:*
 - (A) *Chapter 505 or 507, Health and Safety Code, as applicable; and*
 - (B) *United States Department of Homeland Security registration requirements;*
 - (2) *post National Fire Protection Association 704 warning placards on the outside of the storage area;*
 - (3) *store ammonium nitrate or ammonium nitrate material:*
 - (A) *in a fertilizer storage compartment or bin constructed of wood, metal, or concrete that is protected against impregnation by the ammonium nitrate or ammonium nitrate material; and*
 - (B) *separately from any non-fertilizer materials; and*
 - (4) *separate ammonium nitrate or ammonium nitrate material from combustible or flammable material by 30 feet or more.*
- (d) *A fire marshal who identifies the existence of a hazardous condition under Subsection (b) or a violation of Subsection (a) or (c) shall notify the service of the condition or violation.*
- (e) *If notified by a fire marshal of a hazardous condition under Subsection (b), the service may direct the owner or operator of the facility to correct the condition.*
- (f) *If notified by the fire marshal of a violation of Subsection (a) or (c), the service shall:*
 - (1) *direct the owner or operator of the facility to correct the violation as provided by Subsection (g); or*
 - (2) *take appropriate enforcement action as authorized by this chapter.*
- (g) *If directed by the service to correct a hazardous condition or a violation, an owner or operator shall remedy the condition or violation before the expiration of a period specified by the service, which may not exceed 10 days. If the service determines that the condition or violation has not been remedied before the expiration of the specified period, the service shall take appropriate enforcement action as authorized by this chapter.*
- (h) *Section 419.909(b), Government Code, does not apply to an examination of an ammonium nitrate storage facility by a fire marshal under this section.*

SECTION 3. Section 505.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) It is the intent and purpose of this chapter to ensure that accessibility to information regarding hazardous chemicals is provided to:

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the *commission* [~~department~~] to make the information available to the public through specific procedures.

SECTION 4. Section 505.004, Health and Safety Code, is amended by amending Subdivisions (3-a) and (8-a), as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (12) and (23) to read as follows:

(3-a) “*Commission*” [~~“Commissioner”~~] means the *Texas Commission on Environmental Quality* [~~commissioner of state health services~~].

(8-a) “Executive director” [~~“Executive commissioner”~~] means the *executive director of the commission* [~~executive commissioner of the Health and Human Services Commission~~].

(12) “Fire chief” means the [~~elected or paid~~] administrative head of a fire department, *including a volunteer fire department*.

(23) “Tier two form” means:

(A) a form specified by the *commission* [~~department~~] under Section 505.006 for listing hazardous chemicals as required by EPCRA; or

(B) a form accepted by the EPA under EPCRA for listing hazardous chemicals together with additional information required by the *commission* [~~department~~] for administering its functions related to EPCRA.

SECTION 5. Section 505.005(d), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) The *commission* [~~department~~] shall develop *and implement* an outreach program concerning the public’s ability to obtain information under this chapter similar to the outreach program under Section 502.008.

SECTION 6. Section 505.006, Health and Safety Code, is amended by amending Subsections (a), (c), and (f), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (e) and (g), and adding Subsections (e-1) and (e-2) to read as follows:

(a) For the purpose of community right-to-know, a facility operator covered by this chapter shall compile and maintain a tier two form that contains information on hazardous chemicals present in the facility in quantities that meet or exceed thresholds determined by the EPA in 40 CFR Part 370, or at any other reporting thresholds as determined by *commission* [~~department~~] rule for certain highly toxic or extremely hazardous substances.

(c) Each tier two form shall be filed annually with *the commission, along with* the appropriate fee, according to the procedures specified by *commission* [~~department~~] rules. [~~The facility operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.~~]

(e) *Except as provided by Section 505.0061(c), a [A]* facility operator shall file the tier two form with the *commission* [~~department~~] not later than the 90th day after the date on which the operator begins operation or has a reportable addition, at the appropriate threshold, of a previously unreported hazardous chemical or extremely hazardous substance.

(e-1) *Except as provided by Section 505.0061(c), a facility operator shall file an updated tier two form with the commission:*

(1) *not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance; and*

(2) *as otherwise required by commission rule.*

(e-2) *A facility operator shall furnish a copy of each tier two form and updated tier two form filed with the commission under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. [The operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.]*

(f) A facility operator shall file a safety data sheet with the *commission* [~~department~~] on the *commission’s* [~~department’s~~] request.

(g) The *commission* [~~department~~] shall maintain records of the tier two forms and other documents filed under this chapter or EPCRA for at least 30 years.

SECTION 7. Chapter 505, Health and Safety Code, is amended by adding Section

505.0061 to read as follows:

Sec. 505.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) In this section, "ammonium nitrate" and "ammonium nitrate storage facility" have the meanings assigned by Section 63.151, Agriculture Code.

(b) As soon as practicable but not later than 72 hours after the commission receives a tier two form reporting the presence of ammonium nitrate at an ammonium nitrate storage facility, the commission shall furnish a copy of the form to the state fire marshal and the Texas Division of Emergency Management. The state fire marshal shall furnish a copy of the form to the chief of the fire department having jurisdiction over the facility. The Texas Division of Emergency Management shall furnish a copy of the form to the appropriate local emergency planning committee.

(c) The operator of an ammonium nitrate storage facility shall file:

(1) a tier two form with the commission not later than 72 hours after the operator:

(A) begins operation; or

(B) has a reportable addition, at the appropriate threshold, of previously unreported ammonium nitrate; and

(2) an updated tier two form not later than 72 hours after the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of previously reported ammonium nitrate.

SECTION 8. Sections 505.007(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Any facility that has received five requests under Subsection (a) in a calendar month, four requests in a calendar month for two or more months in a row, or more than 10 requests in a year may elect to furnish the material to the *commission* ~~[department]~~.

(d) Any facility electing to furnish the material to the *commission* ~~[department]~~ under Subsection (c) may during that same filing period inform persons making requests under Subsection (a) of the availability of the information at the *commission* ~~[department]~~ and refer the request to the *commission* ~~[department]~~ for that filing period. The notice to persons making requests shall state the address of the *commission* ~~[department]~~ and shall be mailed within seven days of the date of receipt of the request, if by mail, and at the time of the request if in person.

SECTION 9. Section 505.008(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A facility operator, on request, shall give the fire chief or the local emergency planning committee such additional information on types and amounts of hazardous chemicals present at a facility as the requestor may need for emergency planning purposes. A facility operator, on request, shall give the *executive director* ~~[commissioner]~~, the fire chief, or the local emergency planning committee a copy of the SDS for any chemical on the tier two form furnished under Section 505.006 or for any chemical present at the facility.

SECTION 10. Section 505.009, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 505.009. COMPLAINTS AND INVESTIGATIONS. On presentation of appropriate credentials, a *commission* ~~[department]~~ representative may enter a facility at reasonable times to inspect and investigate complaints.

SECTION 11. Section 505.016, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 505.016. RULES; FEES. (a) The *commission* ~~[executive commissioner]~~ may adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) The *commission* ~~[executive commissioner]~~ by rule may authorize the collection of annual fees from facility operators for the filing of tier two forms required by this

chapter. Except as provided by Subsection (d), fees may be used only to fund activities under this chapter. The fee for facilities may not exceed:

- (1) \$100 for each required submission having no more than 25 hazardous chemicals or hazardous chemical categories;
- (2) \$200 for each required submission having no more than 50 hazardous chemicals or hazardous chemical categories;
- (3) \$300 for each required submission having no more than 75 hazardous chemicals or hazardous chemical categories;
- (4) \$400 for each required submission having no more than 100 hazardous chemicals or hazardous chemical categories; or
- (5) \$500 for each required submission having more than 100 hazardous chemicals or chemical categories.

(c) To minimize the fees, the *commission* [~~executive commissioner~~] by rule shall provide for consolidated filings of multiple tier two forms for facility operators covered by Subsection (b) if each of the tier two forms contains fewer than 25 items.

(d) The *commission* [~~department~~] may use up to 20 percent of the fees collected under this section as grants to local emergency planning committees to assist them to fulfill their responsibilities under EPCRA. *An amount not to exceed* [~~The department may use up to~~] 15 percent of the fees collected under this chapter and Chapter 506, or 15 percent of the amount of fees paid by the state and its political subdivisions under Chapter 506, whichever is greater, *may be used by the Department of State Health Services to administer Chapter 502.*

SECTION 12. Chapter 505, Health and Safety Code, is amended by adding Section 505.018 to read as follows:

Sec. 505.018. ENFORCEMENT. (a) A facility operator may not violate this chapter, commission rules adopted under this chapter, or an order issued under this chapter.

(b) The commission may enforce this chapter under Chapter 7, Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.

SECTION 13. Section 506.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) It is the intent and purpose of this chapter to ensure that accessibility to information regarding hazardous chemicals [~~chemical~~] is provided to:

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the *commission* [~~department~~] to make the information available to the public through specific procedures.

SECTION 14. Section 506.004, Health and Safety Code, is amended by amending Subdivisions (3-a) and (8-a), as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (12) and (24) to read as follows:

(3-a) “*Commission*” [~~“Commissioner”~~] means the *Texas Commission on Environmental Quality* [~~commissioner of state health services~~].

(8-a) “*Executive director*” [~~“Executive commissioner”~~] means the *executive director of the commission* [~~executive commissioner of the Health and Human Services Commission~~].

(12) “*Fire chief*” means the [~~elected or paid~~] administrative head of a fire department, *including a volunteer fire department.*

(24) “*Tier two form*” means:

(A) a form specified by the *commission* [~~department~~] under Section 506.006 for listing hazardous chemicals as required by EPCRA; or

(B) a form accepted by the EPA under EPCRA for listing hazardous chemicals together with additional information required by the *commission* [department] for administering its functions related to EPCRA.

SECTION 15. Section 506.005(d), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) The *commission* [department] shall develop *and implement* an outreach program concerning the public's ability to obtain information under this chapter similar to the outreach program under Section 502.008.

SECTION 16. Section 506.006, Health and Safety Code, is amended by amending Subsections (a), (c), and (e), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (d) and (f), and adding Subsections (d-1) and (d-2) to read as follows:

(a) For the purpose of community right-to-know, a facility operator covered by this chapter shall compile and maintain a tier two form that contains information on hazardous chemicals present in the facility in quantities that meet or exceed thresholds determined by the EPA in 40 CFR Part 370, or at any other reporting thresholds as determined by *commission* [department] rule for certain highly toxic or extremely hazardous substances.

(c) Each tier two form shall be filed annually *with the commission, along with the appropriate fee, according to the procedures specified by commission* [department] *rules.* ~~[The facility operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.]~~

(d) A facility operator shall file the tier two form with the *commission* [department] not later than the 90th day after the date on which the operator begins operation or has a reportable addition, at the appropriate threshold, of a previously unreported hazardous chemical or extremely hazardous substance, but a fee may not be associated with filing this report.

(d-1) A facility operator shall file an updated tier two form with the commission:

(1) not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance; and

(2) as otherwise required by commission rule.

(d-2) A facility operator shall furnish a copy of each tier two form and updated tier two form filed with the commission under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. ~~[The operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.]~~

(e) A facility operator shall file a safety data sheet with the *commission* [department] on the *commission's* [department's] request.

(f) The *commission* [department] shall maintain records of the tier two forms and other documents filed under this chapter or EPCRA for at least 30 years.

SECTION 17. Sections 506.007(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Any facility that has received five requests under Subsection (a) in a calendar month, four requests in a calendar month for two or more months in a row, or more than 10 requests in a year may elect to furnish the material to the *commission* [department].

(d) Any facility electing to furnish the material to the *commission* [department] under Subsection (c) may during that same filing period inform persons making requests under Subsection (a) of the availability of the information at the *commission* [department] and refer the request to the *commission* [department] for that filing period. The notice to persons making requests shall state the address of the *commission* [department] and

shall be mailed within seven days of the date of receipt of the request, if by mail, and at the time of the request if in person.

SECTION 18. Section 506.008(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A facility operator, on request, shall give the fire chief or the local emergency planning committee such additional information on types and amounts of hazardous chemicals present at a facility as the requestor may need for emergency planning purposes. A facility operator, on request, shall give the *executive director* ~~[commissioner]~~, the fire chief, or the local emergency planning committee a copy of the SDS for any chemical on the tier two form furnished under Section 506.006 or for any chemical present at the facility.

SECTION 19. Section 506.009, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 506.009. COMPLAINTS AND INVESTIGATIONS. On presentation of appropriate credentials, a *commission* ~~[department]~~ representative may enter a facility at reasonable times to inspect and investigate complaints.

SECTION 20. Section 506.017, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 506.017. RULES; FEES. (a) The *commission* ~~[executive commissioner]~~ may adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) The *commission* ~~[executive commissioner]~~ by rule may authorize the collection of annual fees from facility operators for the filing of tier two forms required by this chapter. The fee may not exceed:

(1) \$50 for each required submission having no more than 75 hazardous chemicals or hazardous chemical categories; or

(2) \$100 for each required submission having more than 75 hazardous chemicals or chemical categories.

(c) To minimize the fees, the *commission* ~~[executive commissioner]~~ by rule shall provide for consolidated filings of multiple tier two forms for facility operators covered by Subsection (b) if each of the tier two forms contains fewer than 25 items.

(d) *The commission may use up to 20 percent of the fees collected under this section as grants to local emergency planning committees to assist them to fulfill their responsibilities under EPCRA. An amount not to exceed* ~~[The department may use up to]~~ 15 percent of the fees collected under Chapter 505 and this chapter, or 15 percent of the amount of fees paid by the state and its political subdivisions under this chapter, whichever is greater, may be used by the Department of State Health Services to administer Chapter 502.

SECTION 21. Chapter 506, Health and Safety Code, is amended by adding Section 506.018 to read as follows:

Sec. 506.018. ENFORCEMENT. (a) *A facility operator may not violate this chapter, commission rules adopted under this chapter, or an order issued under this chapter.*

(b) *The commission may enforce this chapter under Chapter 7, Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.*

SECTION 22. Section 507.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) It is the intent and purpose of this chapter to ensure that accessibility to information regarding hazardous chemicals is provided to:

(1) fire departments responsible for dealing with chemical hazards during an emergency;

(2) local emergency planning committees and other emergency planning organizations; and

(3) the *commission* ~~[department]~~ to make the information available to the public through specific procedures.

SECTION 23. Section 507.003, Health and Safety Code, is amended to read as follows:

Sec. 507.003. FEDERAL LAWS AND REGULATIONS. (a) In this chapter, a reference to a federal law or regulation means a reference to the most current version of that law or regulation.

(b) In this chapter, a reference to the North American Industry Classification System (NAICS) means a reference to the most current version of that system.

SECTION 24. Section 507.004, Health and Safety Code, is amended by amending Subdivisions (3-a) and (8-a), as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (10), (12), and (23) to read as follows:

(3-a) "Commission" [~~"Commissioner"~~] means the *Texas Commission on Environmental Quality* ~~[commissioner of state health services]~~.

(8-a) "Executive director" [~~"Executive commissioner"~~] means the *executive director of the commission* ~~[executive commissioner of the Health and Human Services Commission]~~.

(10) "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with that person, *and that is in North American Industry Classification System (NAICS) Codes 11-23 or Codes 42-92*. The term does not include a facility subject to Chapter ~~[505 or]~~ 506.

(12) "Fire chief" means the ~~[elected or paid]~~ administrative head of a fire department, *including a volunteer fire department*.

(23) "Tier two form" means:

(A) a form specified by the *commission* ~~[department]~~ under Section 507.006 for listing hazardous chemicals as required by EPCRA; or

(B) a form accepted by the EPA under EPCRA for listing hazardous chemicals together with additional information required by the *commission* ~~[department]~~ for administering its functions related to EPCRA.

SECTION 25. Section 507.005, Health and Safety Code, is amended by amending Subsection (a) and amending Subsection (d), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) Facility operators *whose facilities are in North American Industry Classification System (NAICS) Codes 11-23 or NAICS Codes 42-92 and who are not subject to Chapter* ~~[505 or]~~ 506 shall comply with this chapter.

(d) The *commission* ~~[department]~~ shall develop and implement an outreach program concerning the public's ability to obtain information under this chapter similar to the outreach program under Section 502.008.

SECTION 26. Section 507.006, Health and Safety Code, is amended by amending Subsections (a), (c), and (f), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (e) and (g), and adding Subsections (e-1) and (e-2) to read as follows:

(a) For the purpose of community right-to-know, a facility operator covered by this chapter shall compile and maintain a tier two form that contains information on hazardous chemicals present in the facility in quantities that meet or exceed thresholds determined by the EPA in 40 CFR Part 370, or at any other reporting thresholds as determined by *commission* ~~[department]~~ rule for certain highly toxic or extremely hazardous substances.

(c) Each tier two form shall be filed annually *with the commission, along with the appropriate fee, according to the procedures specified by commission* ~~[department]~~ rules. ~~[The facility operator shall furnish a copy of each tier two form to the fire chief of the fire~~

~~department having jurisdiction over the facility and to the appropriate local emergency planning committee.]~~

(e) *Except as provided by Section 507.0061(c), a [A] facility operator shall file the tier two form with the commission [department] not later than the 90th day after the date on which the operator begins operation or has a reportable addition, at the appropriate threshold, of a previously unreported hazardous chemical or extremely hazardous substance.*

(e-1) Except as provided by Section 507.0061(c), a facility operator shall file an updated tier two form with the commission:

(1) not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance; and

(2) as otherwise required by commission rule.

(e-2) A facility operator shall furnish a copy of each tier two form and updated tier two form filed with the commission under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. [The operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.]

(f) A facility operator shall file a safety data sheet with the commission [department] on the commission's [department's] request.

(g) The commission [department] shall maintain records of the tier two forms and other documents filed under this chapter or EPCRA for at least 30 years.

SECTION 27. Chapter 507, Health and Safety Code, is amended by adding Section 507.0061 to read as follows:

Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) In this section, "ammonium nitrate" and "ammonium nitrate storage facility" have the meanings assigned by Section 63.151, Agriculture Code.

(b) As soon as practicable but not later than 72 hours after the commission receives a tier two form reporting the presence of ammonium nitrate at an ammonium nitrate storage facility, the commission shall furnish a copy of the form to the state fire marshal and the Texas Division of Emergency Management. The state fire marshal shall furnish a copy of the form to the chief of the fire department having jurisdiction over the facility. The Texas Division of Emergency Management shall furnish a copy of the form to the appropriate local emergency planning committee.

(c) The operator of an ammonium nitrate storage facility shall file:

(1) a tier two form with the commission not later than 72 hours after the operator:

(A) begins operation; or

(B) has a reportable addition, at the appropriate threshold, of previously unreported ammonium nitrate; and

(2) an updated tier two form with the commission not later than 72 hours after the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of previously reported ammonium nitrate.

SECTION 28. Section 507.007(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A facility operator, on request, shall give the fire chief or the local emergency planning committee such additional information on types and amounts of hazardous chemicals present at a facility as the requestor may need for emergency planning purposes. A facility operator, on request, shall give the executive director [commissioner], the fire chief, or the local emergency planning committee a copy of the SDS for any chemical on the tier two form furnished under Section 507.006 or for any chemical present at the facility.

SECTION 29. Section 507.008, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 507.008. COMPLAINTS AND INVESTIGATIONS. On presentation of appropriate credentials, a *commission* ~~[department]~~ representative may enter a facility at reasonable times to inspect and investigate complaints.

SECTION 30. Section 507.013, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 507.013. RULES; FEES. (a) The *commission* ~~[executive commissioner]~~ may adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) The *commission* ~~[executive commissioner]~~ by rule may authorize the collection of annual fees from facility operators for the filing of tier two forms required by this chapter. Except as provided by Subsection (d), fees may be used only to fund activities under this chapter. The fee may not exceed:

(1) \$50 for each required submission having no more than 75 hazardous chemicals or hazardous chemical categories; or

(2) \$100 for each required submission having more than 75 hazardous chemicals or chemical categories.

(c) To minimize the fees, the *commission* ~~[executive commissioner]~~ by rule shall provide for consolidated filings of multiple tier two forms for facility operators covered by Subsection (b) if each of the tier two forms contains fewer than 25 items.

(d) The *commission* ~~[department]~~ may use up to 20 percent of the fees collected under this section as grants to local emergency planning committees to assist them to fulfill their responsibilities under EPCRA.

SECTION 31. Chapter 507, Health and Safety Code, is amended by adding Section 507.014 to read as follows:

Sec. 507.014. ENFORCEMENT. (a) A facility operator may not violate this chapter, commission rules adopted under this chapter, or an order issued under this chapter.

(b) The commission may enforce this chapter under Chapter 7, Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.

SECTION 32. Section 5.013(a), Water Code, is amended to read as follows:

(a) The commission has general jurisdiction over:

(1) water and water rights including the issuance of water rights permits, water rights adjudication, cancellation of water rights, and enforcement of water rights;

(2) continuing supervision over districts created under Article III, Sections 52(b)(1) and (2), and Article XVI, Section 59, of the Texas Constitution;

(3) the state's water quality program including issuance of permits, enforcement of water quality rules, standards, orders, and permits, and water quality planning;

(4) the determination of the feasibility of certain federal projects;

(5) the adoption and enforcement of rules and performance of other acts relating to the safe construction, maintenance, and removal of dams;

(6) conduct of the state's hazardous spill prevention and control program;

(7) the administration of the state's program relating to inactive hazardous substance, pollutant, and contaminant disposal facilities;

(8) the administration of a portion of the state's injection well program;

(9) the administration of the state's programs involving underground water and water wells and drilled and mined shafts;

(10) the state's responsibilities relating to regional waste disposal;

(11) the responsibilities assigned to the commission by Chapters 361, 363, 382, ~~[and]~~ 401, 505, 506, and 507, Health and Safety Code; and

(12) any other areas assigned to the commission by this code and other laws of this state.

SECTION 33. Section 7.052, Water Code, is amended by adding Subsection (b–4) to read as follows:

(b–4) The amount of the penalty against a facility operator who violates Chapter 505, Health and Safety Code, or a rule adopted or order issued under that chapter may not exceed \$500 a day for each day a violation continues with a total not to exceed \$5,000 for each violation. The amount of a penalty against a facility operator who violates Chapter 506 or 507, Health and Safety Code, or a rule adopted or order issued under those chapters may not exceed \$50 a day for each day a violation continues with a total not to exceed \$1,000 for each violation.

SECTION 34. Subchapter D, Chapter 7, Water Code, is amended by adding Section 7.1021 to read as follows:

Sec. 7.1021. MAXIMUM CIVIL PENALTY: VIOLATION OF COMMUNITY RIGHT-TO-KNOW LAWS. (a) A person who knowingly discloses false information or negligently fails to disclose a hazard as required by Chapter 505 or 506, Health and Safety Code, is subject to a civil penalty of not more than \$5,000 for each violation.

(b) This section does not affect any other right of a person to receive compensation under other law.

SECTION 35. Subchapter E, Chapter 7, Water Code, is amended by adding Section 7.1851 to read as follows:

Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY RIGHT-TO-KNOW LAWS. (a) A person who proximately causes an occupational disease or injury to an individual by knowingly disclosing false information or knowingly failing to disclose hazard information as required by Chapter 505 or 506, Health and Safety Code, commits an offense punishable by a fine of not more than \$25,000.

(b) This section does not affect any other right of a person to receive compensation under other law.

SECTION 36. The following provisions of the Health and Safety Code, including provisions amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Sections 505.004(2), (5), and (6);
- (2) Sections 505.008(c), 505.010, 505.011, 505.012, 505.013, and 505.014;
- (3) Sections 506.004(2), (5), and (6);
- (4) Sections 506.008(c), 506.010, 506.011, 506.012, 506.013, 506.014, 506.015, and 506.016;
- (5) Sections 507.004(2), (5), and (6); and
- (6) Sections 507.007(c), 507.009, 507.010, and 507.011.

SECTION 37. (a) On September 1, 2015, the following are transferred to the Texas Commission on Environmental Quality:

- (1) the powers, duties, obligations, and liabilities of the Department of State Health Services relating to Chapters 505, 506, and 507, Health and Safety Code;
- (2) all unobligated and unexpended funds appropriated to the Department of State Health Services designated for the administration of Chapters 505, 506, and 507, Health and Safety Code;
- (3) all equipment and property of the Department of State Health Services used solely or primarily for the administration of Chapters 505, 506, and 507, Health and Safety Code;
- (4) all files and other records of the Department of State Health Services kept by the department relating to the administration of Chapters 505, 506, and 507, Health and Safety Code; and

(5) employees of the Department of State Health Services whose duties relate solely or primarily to the administration of Chapters 505, 506, and 507, Health and Safety Code.

(b) A rule adopted by the Department of State Health Services that is in effect immediately before September 1, 2015, and that relates to Chapters 505, 506, and 507, Health and Safety Code, is, on September 1, 2015, a rule of the Texas Commission on Environmental Quality and remains in effect until amended or repealed by the Texas Commission on Environmental Quality. A complaint, investigation, enforcement proceeding, or other proceeding pending before the Department of State Health Services on September 1, 2015, is continued by that department without change in status after the effective date of this Act.

(c) The Department of State Health Services may agree with the Texas Commission on Environmental Quality to transfer any property of the department to the commission to implement the transfer required by this Act.

SECTION 38. (a) Except as otherwise provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Sections 63.151(3), (4), and (5) and Section 63.158, Agriculture Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those sections take effect September 1, 2015.

Passed by the House on May 4, 2015: Yeas 129, Nays 10, 1 present, not voting;
passed by the Senate on May 21, 2015: Yeas 30, Nays 1.

Approved June 16, 2015.

Effective September 1, 2015, except as provided by § 38(b).

**REPORTING REQUIREMENTS FOR CERTAIN INJURIES OR
DEATHS CAUSED BY PEACE OFFICERS AND FOR CERTAIN
INJURIES OR DEATHS OF PEACE OFFICERS**

CHAPTER 516

H.B. No. 1036

AN ACT

relating to reporting requirements for certain injuries or deaths caused by peace officers and for certain injuries or deaths of peace officers.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.139 and 2.1395 to read as follows:

Art. 2.139. REPORTS REQUIRED FOR OFFICER-INVOLVED INJURIES OR DEATHS. (a) *In this article:*

(1) *“Deadly weapon” means:*

(A) *a firearm or any object manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or*

(B) *any object that in the manner of its use or intended use is capable of causing death or serious bodily injury.*

(2) *“Officer-involved injury or death” means an incident during which a peace officer discharges a firearm causing injury or death to another.*

(b) *The office of the attorney general by rule shall create a written and electronic form for the reporting by law enforcement agencies of an officer-involved injury or death. The form must include spaces to report only the following information:*